

REMARKS

I. Overview

Claims 1-30 are pending in the present application. Claims 1, 9, and 17 have been amended. Claims 25-30 have been added. The outstanding issues raised in the Non-Final Office Action of January 24, 2007 (*Office Action*) are as follows:

- Claims 1-5, 7-13, 15-21, 23, and 24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2002/0107830 (*Nanja*) in view of U.S. Patent Application Publication No. 2003/0005455 (*Bowers*);
- Claims 6, 14, and 22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Nanja* in view of *Bowers* and U.S. Patent Application Publication No. 2004/0199635 (*Ta*); and
- Claims 1, 9, and 17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Nanja* in view of U.S. Patent Application Publication No. 2002/0146008 (*Kaplan*).

In response, Applicant respectfully traverses the outstanding claim rejections and requests reconsideration and withdrawal in light of the amendments and remarks presented herein.

II. Claim Amendments

Claim 1 has been amended to recite that each subscriber's information preferences specify a type of dynamically changing information available from a same data source provider which the subscriber desires to receive through subscription. No new matter has been presented with this amendment as the added language finds ample support throughout the Specification as originally filed. *E.g.*, *Specification* at ¶¶ [0034]—[0037].

Claim 9 has been amended to recite means for assembling two or more information preferences gathered from a plurality of subscribers that correspond to different data of a same data source provider into an aggregate preference. No new matter has been presented

with this amendment as the added language finds ample support throughout the Specification as originally filed. *E.g., Specification* at ¶¶ [0034]—[0037].

Claim 17 has been amended to recite that each of the preferences identifies a subset of the information desired for subscription among different types of available information channels. No new matter has been presented with this amendment as the added language finds ample support throughout the Specification as originally filed. *E.g., Specification* at ¶¶ [0034]—[0037].

III. Claim Rejections Under 35 U.S.C. § 103(a) over *Nanja* and *Bowers*

Claims 1-5, 7-13, 15-21, 23, and 24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Nanja* in view of *Bowers*. *Office Action*, at p. 2. Applicant traverses the rejection and asserts that the claims are allowable, at least, for the reasons stated below.

To establish a prima facie case of obviousness under 35 U.S.C. § 103(a), three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the references' teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *See* M.P.E.P. § 2143. Applicant asserts that the rejection does not satisfy the basic criteria.

A. Improper Motivation

The rejection of claims 1-5, 7-13, 15-21, 23, and 24 should be withdrawn because the combination of *Nanja* with *Bowers* is improper. In support for the combination, the Examiner states that:

[i]t would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the [aggregation] of *Bowers* into the teachings of *Nanja* for the purposes of increasing the network resources efficiency (paragraph 9-11).

Office Action, at p. 3. However, Applicant notes that the “aggregation” provided in *Nanja* is very different from the “aggregation” provided in *Bowers*. Particularly, *Nanja* aggregates different data retrieved from different sources as requested by a single user. *E.g.*, *Nanja*, at Abstract. Meanwhile, *Bowers* aggregates requests (*not* retrieved data itself) originated by different users (*not* a single user) for the same data (*not* different data) provided by a single source (*not* different sources). *Bowers*, at Abstract.

In view of the foregoing differences between *Nanja* and *Bowers*, Applicant respectfully notes that there is no indication that use of both aggregation methods together would “increase network resources efficiency,” as contended by the Examiner. In fact, the use of both aggregation methods seems to involve the duplication of at least some aggregation efforts, and thus would be detrimental to the efficiency of *Nanja*’s network. Moreover, it is not immediately appreciable how the “aggregation” of *Bowers* would work together with the “aggregation” of *Nanja*, if at all. Applicant submits that a combination of *Bowers* with *Nanja* would require a substantial reconstruction and redesign of the elements shown in *Nanja*, as well as a change in the basic principle under which *Nanja* was designed to operate. *See In re Ratti*, 270 F.2d 810, 843, 123 USPQ 349, 352 (CCPA 1959). Accordingly, the combination of *Nanja* with *Bowers* is improper, and Applicant respectfully requests that the Examiner withdraw the 35 U.S.C. § 103(a) rejection of record with respect to claims 1-5, 7-13, 15-21, 23, and 24.

B. Lack of All Claimed Elements

1. Independent Claim 1

Claim 1, as amended, recites, in part:

receiving information preferences from a plurality of subscribers to said mobile information system, wherein each subscriber’s information preferences specify at least one type of dynamically changing information available from a same data source provider that said subscriber desires to receive through subscription to said mobile information system; [and]

aggregating those of said information preferences received from said plurality of subscribers that correspond to

said same data source provider into aggregated information preferences

The Examiner admits that *Nanja* does not teach or suggest “aggregating those of said information preferences received from said plurality of subscribers that correspond to a same data source provider into aggregated information preferences . . . ,” and relies solely upon *Bowers* as curing this deficiency. *Office Action*, at pp. 2 and 3. However, *Bowers* does not disclose aggregating “information preferences” because *Bowers*’ aggregated “requests” do not specify types of information, much less types of dynamically changing information, as recited in amended claim 1.

Applicant notes that *Bowers* only discloses aggregating requests for specific media streams. *E.g.*, *Bowers* at ¶ [0050]. Clearly, *Bowers*’ requests for streaming media files do not specify “types” of media files selected by a subscriber insofar as they must identify the desired media files themselves. *Id.* at ¶ [0015] and [0033]. Furthermore, *Bowers*’ requests identify streaming media files that are static (*i.e.*, do not change over time), whereas the claimed information preferences specify dynamically changing information. *See, e.g.*, *Specification* at ¶¶ [0034]—[0037] (game scores are typically updated daily and stock quotes must be updated throughout the day).

Therefore, the combination of *Nanja* and *Bowers*, even if proper, does not teach or suggest every element recited in claim 1. Accordingly, Applicant respectfully requests that the Examiner withdraw the 35 U.S.C. § 103(a) rejection of record with respect to claim 1.

2. Independent Claim 9

Claim 9, as amended, recites “means for assembling two or more of said information preferences gathered from said plurality of subscribers that correspond to different data of a same data source provider into an aggregate preference. . . .” The Examiner has previously admitted that *Nanja* does not teach or suggest a similar feature, and relied solely upon *Bowers* as teaching or suggesting that feature. *Office Action*, at pp. 2 and 3. However, claim 9 now more clearly recites that two or more of the aggregated information preferences correspond to different data of a same data source provider. In contrast, *Bowers* only discloses aggregating

requests that correspond to the same data of the same data source provider. *E.g.*, *Bowers* at ¶¶ [0050] and [0051] (“aggregation module 102 aggregates requests for *the same* real-time streaming or continuous feed . . .”) (emphasis added). Applicant respectfully submits that neither *Nanja* nor *Bowers* teaches or suggests this claimed element.

Therefore, the combination of *Nanja* and *Bowers*, even if proper, does not teach or suggest every element recited in claim 9. Accordingly, Applicant respectfully requests that the Examiner withdraw the 35 U.S.C. § 103(a) rejection of record with respect to claim 9.

3. Independent Claim 17

Claim 17, as amended, recites that “each of said preferences identifies a subset of dynamically changing information available for subscription through at least one information channel . . .” As noted above with respect to claim 1, *Bowers* requests for specific data are not the same as the claimed preferences. Applicant respectfully asserts that the combination of *Nanja* and *Bowers*, even if proper, does not teach or suggest at least this element recited in claim 17. Accordingly, Applicant respectfully requests that the Examiner withdraw the 35 U.S.C. § 103(a) rejection of record with respect to claim 17.

4. Dependent Claims 2-5, 7, 8, 10-13, 15, 16, 18-21, 23, and 24

As noted above, the combination of *Nanja* and *Bowers*, even if proper, does not teach or suggest every element recited in claims 1, 9, and 17. Dependent claims 2-5, 7, 8, 10-13, 15, 16, 18-21, 23, and 24 depend from claims 1, 9, and/17, each dependent claim thus inheriting all the elements of its respective independent claim. Consequently, the combination of *Nanja* with *Bowers*, even if proper, also fails to teach every element of dependent claims 2-5, 7, 8, 10-13, 15, 16, 18-21, 23, and 24. Accordingly, Applicant respectfully requests that the Examiner withdraw the 35 U.S.C. § 103(a) rejection of record with respect to claims 2-5, 7, 8, 10-13, 15, 16, 18-21, 23, and 24.

IV. Claim Rejections Under 35 U.S.C. § 103(a) over *Nanja*, *Bowers*, and *Ta*

Claims 6, 14, and 22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Nanja* in view of *Bowers* and *Ta*. *Office Action*, at p. 5. Applicant traverses the rejection and asserts that the claims are allowable, at least, for the reasons stated below.

Lack of All Claimed Elements

As noted above, the combination of *Nanja* with *Bowers* fails to teach or suggest every element recited in claims 1, 9, and 17. The Examiner does not rely upon *Ta* as teaching or suggesting these elements, and Applicant asserts that *Ta* does not teach or suggest such features. Therefore, the combination of the combination of *Nanja* with *Bowers* and *Ta*, even if proper, fails to teach or suggest all of the elements of independent claims 1, 9, and 17. Dependent claims 6, 14, and 22 depend from claim 1, 9, and 17, respectively, each dependent claim thus inheriting all the features of its respective independent claim. Consequently, the combination of the combination of *Nanja* with *Bowers* and *Ta*, even if proper, also fails to teach or suggest all of the elements of dependent claims 6, 14, and 22. Accordingly, Applicant respectfully requests that the Examiner withdraw the 35 U.S.C. § 103(a) rejection of record with respect to claims 6, 14, and 22.

V. Claim Rejections Under 35 U.S.C. § 103(a) over *Nanja* and *Kaplan*

Claims 1, 9, and 17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Nanja* in view of *Kaplan*. *Office Action*, at p. 5. Applicant traverses the rejection and asserts that the claims are allowable, at least, for the reasons stated below.

Lack of All Claimed Elements

Claim 1 recites “aggregating two or more of said information preferences received from said plurality of subscribers that correspond to different data of a same data source provider into aggregated information preferences” The Examiner has admitted that *Nanja* did not teach or suggest a previously recited feature and relied solely upon *Kaplan* as teaching or suggesting that feature. *Office Action*, at p. 6. However, claim 1 recites that the information preferences to be aggregated correspond to different data of a same data source

provider. In contrast, *Kaplan* only discloses aggregating requests “by cell,” without regard to whether the data being requested correspond to the same data source provider. *E.g.*, *Kaplan* at ¶¶ [0063] (“a client-server cellule . . . advertises the aggregated subscriptions of all its clients to its neighbor cellule . . .”). Applicant respectfully submits that neither *Nanja* nor *Kaplan* teach or suggest this claimed element.

Therefore, the combination of *Nanja* and *Kaplan* does not teach or suggest every element recited in claim 1. Claims 9 and 17 recite similar elements and thus are patentable for at least the same reasons. Accordingly, Applicant respectfully requests that the Examiner withdraw the 35 U.S.C. § 103(a) rejection of record with respect to claims 1, 9, and 17.

VI. New Claims

Claims 25-30 have been added by the present amendment. No new matter has been presented with these amendments as the added language finds ample support throughout the Specification as originally filed. *E.g.*, *Specification* at ¶¶ [0016] and [0034]—[0037]; Figure 6. In addition, Applicant believes that each of these claims is patentable over the references of record, taken alone in combination.

For example, new claim 25 recites:

receiving, at an enhanced broadcast server, preferences from a plurality of subscribers to a mobile information system, wherein said preferences specify for each of said subscribers a subset of information that is available from at least one data provider with which said enhanced broadcast server is communicatively coupled and that is of interest to said subscriber;

aggregating, by said enhanced broadcast server, said preferences of said plurality of subscribers for information available from one of said at least one data provider to form a superset of said information that is of interest to said plurality of subscribers;

sending, from said enhanced broadcast server, a request for said superset of said information to said one of said at least one data provider;

receiving, at said enhanced broadcast server, said requested superset of said information from said one of said at

least one data provider;
determining, by said enhanced broadcast server,
corresponding subsets of said received superset of said
information that are of interest to each of said plurality of
subscribers based on each of said subscribers' preferences; and
sending, from said enhanced broadcast server, said
determined subsets of said received superset of said
information to each of said plurality of subscribers

Applicant asserts that neither *Nanja*, *Bowers*, *Ta*, nor *Kaplan* teach or suggest these features. Therefore, the references of record, taken alone or in combination, do not teach or suggest every element recited in claim 25. Claim 26 depends from claim 25 and thus is patentable for at least the same reasons. Accordingly, Applicant respectfully requests that the Examiner pass claims 25 and 26 to issue.

Also, new claim 27 recites:

receiving, at an enhanced broadcast server, preferences
from a plurality of subscribers to a mobile information system,
wherein said preferences specify for each of said subscribers a
corresponding subset of information that is available from at
least one data provider with which said enhanced broadcast
server is communicatively coupled that is of interest to said
each of said subscribers;
receiving, at said enhanced broadcast server from at
least one data provider, information for all subsets that are of
interest to said plurality of subscribers;
determining, by said enhanced broadcast server,
corresponding subsets of said received information that are of
interest to each of said plurality of subscribers based on each of
said subscribers' preferences; and
sending, from said enhanced broadcast server, each of
said determined subsets of said received information to each of
said plurality of subscribers.

Applicant asserts that neither *Nanja*, *Bowers*, *Ta*, nor *Kaplan* teach or suggest these features. Therefore, the references of record, taken alone or in combination, do not teach or suggest every element recited in claim 27. Claims 28-30 depend from claim 27 and thus are patentable for at least the same reasons. Accordingly, Applicant respectfully requests that the Examiner pass claims 27-30 to issue.

VII. Conclusion

In view of the above, Applicant believes the pending application is in condition for allowance.

Applicant believes a fee of \$700.00 is due with this response. However, if any additional fee is due, please charge our Deposit Account No. 06-2380, under Order No. M066 from which the undersigned is authorized to draw.

Dated: April 16, 2007

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is e-filed on the date shown below.

Dated: April 16, 2007

Signature: Donna Forbit
Donna Forbit

Respectfully submitted,

By 

Jody C. Bishop

Registration No.: 44,034

FULBRIGHT & JAWORSKI L.L.P.

2200 Ross Avenue, Suite 2800

Dallas, Texas 75201-2784

(214) 855-8007

(214) 855-8200 (Fax)

Attorney for Applicant